

# *City of Brisbane*

## *Planning Commission Agenda Report*

TO: Planning Commission For the Meeting of 10/27/11

FROM: Tim Tune, Senior Planner, via John Swiecki, Community Development Director

SUBJECT: **STUDY SESSION:** Planning and Subdivision Permit Expirations, Extensions and Revocations; Appeal Periods; Hearing Deadlines; and Notification Requirements

**FOLLOW-UP:** At the October 13<sup>th</sup> study session, the Planning Commission preliminarily agreed to a consistent 3-year term for planning permits, as well as tentative maps [which requires amendment of Brisbane Municipal Code Section 16.16.270 in the Subdivision Ordinance per Government Code Sections 66452.6(a) & 66463.5], with the approving body being authorized to impose a different term as appropriate.

The Commission, though, rejected the possibility of a standard one-time 2-year extension that could be granted through a Zoning Administrator approval process. Concern was expressed that the process suggested by staff would deprive the Commission the opportunity to impose new conditions of approval when extending planning permits. The Commission, though, did not offer an alternative approach for allowing extensions that would address its original complaint that much of the Commission's and staff's time was being taken up by requested renewals of various approvals for smaller projects.

Generally, the Planning Commission does not have the legal authority to impose conditions which supersede the standards adopted by the City Council in the Municipal Code, unless necessary to mitigate significant environmental impacts through the California Environmental Quality Act. Thus, environmental status could be one criterion to separate projects for which planning permits could be extended through a streamlined process (projects which were originally found to be categorically or otherwise exempt from the provisions of CEQA), versus those which would have to reapply for Planning Commission approval (projects originally approved with a Negative Declaration or Environmental Impact Report). One approach would be to all projects which were categorically exempt to be extended by the Zoning Administrator through a process similar to that used for wireless telecommunications facilities (see attached table for other possible approaches to administrative approval):

*A Use Permit/Variance/Design Permit may be extended by the zoning administrator for a period not to exceed two (2) years or five (5) years from the effective date of the Use Permit/Variance/Design Permit, if the original approval was categorically or otherwise*

*exempt from the provisions of the California Environmental Quality Act. The application for extension shall be filed prior to the expiration date of the Use Permit/Variance/Design Permit and shall be accompanied by payment of a processing fee in such amount as established from time to time by resolution of the city council.*

*If the zoning administrator determines that an extension should be granted, the zoning administrator shall give written notice of such intended decision to all persons shown on the latest adopted tax roll as owning property within three hundred (300) feet from the boundaries of the project site. Notice shall also be posted at each location within the city where agendas for planning commission meetings are routinely posted. The notice shall advise that any person shall have ten (10) days from the date of the mailing of the notice to submit a written request for a hearing on the intended approval of the extension, which shall be held not less than fifteen (15) days from the date of mailing the notice. The notice shall also advise of the right to appeal a decision of the zoning administrator to the planning commission.*

*In granting an extension, the zoning administrator is not authorized to initiate any amendments of the original conditions of approval.*

*No extension shall be granted unless a finding is made that there have been no substantial changes in the circumstances or applicable land use regulations under which the permit was originally approved. The zoning administration may refer any extension application to the planning commission for a decision thereon if the zoning administrator is unable to make the required finding. An application referred by the zoning administrator to the planning commission shall be processed in accordance with the same procedure applicable to an appeal.*

Note that this extension process would not be provided for Planned Development Permits, which would typically be for projects originally approved subject to a Negative Declaration or EIR by the City Council upon recommendation by the Planning Commission, subsequent to adoption of a Specific Plan.

The Commission did not address the issue of coordinating the expiration of planning permits with concurrent subdivision permit approvals, particularly when the State adopts legislation to automatically extend the life of Tentative Parcel Maps, Tentative Subdivision Maps and Vesting Tentative Maps (see Government Code Section 66452.23). Although such legislation also extends any related State approvals, it does not extend any other local approvals. In comparison, Government Code Section 65863.9 specifies that any Planned Development Permit approved by a local agency in conjunction with a Tentative Subdivision Map shall not expire sooner than the approved Tentative Map or any extension thereof, unless specified otherwise. In addition, Development Agreements adopted per Government Code Sections 65864-65869.5 may include a provision that the related planning permit approvals shall have the same expiration date as the Development Agreement (see attached). Staff suggests the following:

*A Use Permit/Variance/Design Permit/Planned Development Permit issued in conjunction with a Tentative Map shall expire concurrently with the Tentative Map, including automatic extensions through the State Subdivision Map Act. Subject to specific provision, a Development Agreement adopted by the City Council may require that a related Planned Development Permit shall have the same expiration date as the Development Agreement.*

The Commission preliminarily supported:

Coordination of planning permit and building permit expirations--

*Variances/Design Permits/Planned Development Permits shall expire three (3) years (unless a different period of time is designated by the approving body) from their effective date at the end of the appeal period or, if appealed, upon final approval, if application for a Building Permit for the project has not yet been submitted, if the Building Permit application submitted has been abandoned, or if the Building Permit issued for the project becomes invalid...*

Consistent effective dates for Use Permits, Variances and Design Permits (including those approved by the Zoning Administrator), coordinated with applicable appeal periods--

*Use Permits/Variances/Design Permits shall become effective upon the expiration of fifteen (15) days following the date on which the Use Permit/Variance/Design Permit was granted by the Zoning Administrator/Planning Commission, or, if appealed pursuant to Chapter 17.52 of this title, upon final approval. Use Permits/Variances/Design Permits approved in conjunction with a Tentative Subdivision Map or Tentative Parcel Map shall be subject to a ten (10) day appeal period pursuant to Chapter 16.44 of Title 16, Subdivisions.*

Extension of appeal deadlines that fall on a weekend or holiday—

*If the deadline for filing any appeal specified in this title falls upon a Saturday, Sunday, holiday or any other day on which the city offices are closed for the entire day for any reason, the deadline shall be by close of business on the first business day thereafter.*

Elimination of Municipal Code hearing deadlines that conflict with State law—

~~Application—Public hearing—Notice. Public hearing by planning commission—Notice. Upon receipt of an application for a Use Permit/Variance, the secretary of the planning commission shall set a date for a public hearing on such application;~~

~~such hearing shall be held within forty five (45) days after the filling of the application. The Planning Commission shall conduct a public hearing on the application for a Use Permit/Variance. Notice of such hearing shall be given as set forth in Chapter 17.54.~~

Elimination of Municipal Code public notice provisions that conflict with State law--

17.54.030 – Use Permits, variances, *design permits and planned development permits and appeals*—Notice requirements.

A. Whenever an application for a variance, or a ~~conditional~~ use permit or *design permit or planned development* ~~other~~ permit, for revocation or modification of same or an appeal from the action taken thereon, is submitted to the body or person charged with conducting a public hearing thereon, *notice of the public hearing shall be given not less than ten (10) days nor more than thirty (30) days prior to the date of the hearing by mail to the applicant and to all persons whose names appear on the latest available assessment roll of the county as owning property within three hundred (300) feet of the boundaries of the site which is the subject of the permit application. Notice of the public hearing shall also be posted at each location within the city where agendas for planning commission meetings are routinely posted, notice of hearing shall be given by notice through the United States mails, with postage prepaid using addresses from the last equalized assessment roll, or alternatively, from such other records of the assessor or tax collector as contain more recent addresses in the opinion of the body, or by both publication at least once in a newspaper of general circulation, published and circulated in the city, and by posting the notice in at least three (3) conspicuous places close to the property affected.*

~~B. When mailed notice is used, notice shall be given to all owners of property within one hundred (100) feet of the exterior boundaries of the property for which an application is being heard. The notices shall be mailed not less than ten (10) or more than thirty (30) days before the scheduled hearing.~~

~~C. When posted notice is used, posting shall be on utility poles on both sides of the property frontage and across the street from the subject property.~~

~~D. Notices specified in subsections B and C shall specify the type and magnitude of the application to be considered, the place where copies of the application may be reviewed, the time, date and place of the hearing and the right to appear and be heard. The notice shall include the date, time, and place of a public hearing, the identity of the hearing body or officer, a general explanation of the matter to be considered, and a general description, in text or by diagram, of the location of the real property, if any, that is the subject of the hearing.~~

Clarification of Zoning Administration appeal procedures—

17.56.040 – Zoning administrator-Reporting decisions to planning commission.

All decisions of the zoning administrator, except decisions relating to the granting or denial of a sign permit pursuant to Chapter 17.36, shall be reported to the planning commission prior to the expiration of the appeal period. If any member of the planning commission desires to appeal the decision it shall be considered appealed ~~and placed on the next commission agenda~~. *The secretary to the planning commission shall set the matter for hearing before the planning commission at the earliest available date and cause notice of such hearing to be given as set forth in Chapter 17.54.*

**RECOMMENDATION:** Provide direction to staff to prepare a draft ordinance for recommendation to the City Council, and adopt the attached draft Resolution No. RZ-7-11a to formally initiate the zoning text amendment process.

**ATTACHMENTS:**

Administrative Approval Process Table  
Government Code Sections 65864-65869.5 and City Council Resolution 88-10 Regarding  
Development Agreements  
Draft Resolution of Intention  
Draft Redline Ordinance

ADMINISTRATIVE APPROVAL PROCESS			
Title	Permit	Public Hearing	Notice
Planning Director	R&D uses in SP-CRO District not requiring a Use Permit per BMC Sections 17.18.020.K & 17.18.035.A, B & C	No	To City Council of right to require hearing (15 day appeal period)
Zoning Administrator	Wireless telecommunications facilities per BMC Sect. 17.32.032.D; Solar Energy System Height Exceptions per BMC Sect. 17.32.060.C	No	To property owners within 300 ft. to submit written comments within 10 days (15 day appeal period)
Zoning Administrator	Minor Modifications to lot area, coverage, setback and fence height regulations per BMC Sect. 17.56.090	No	To property owners within 75 ft. of action taken and right to appeal within 15 days
Zoning Administrator	Sign Permits for illuminated signs, etc., per BMC Tables 17.36.020, 17.36.020A-1 & 17.36.020.A-2	Yes	To owners and occupants of properties on both sides and across the street 10 days before hearing (15 day appeal period)
Zoning Administrator	Design Permit amendments per BMC Sect. 17.42.070.A; Variances per BMC Sect. 17.56.050; Interim Use Permit extensions per BMC Sect. 17.41.080.D; Accessibility Improvement Permits per BMC Sect. 17.32.060.D, 17.32.070.A.1.f & 17.32.080; Large Family Day Care Homes per California Health & Welfare Code Sects. 1597.46(a)(3) & 1597.465	Yes	To owners of property within 300 ft. 10 days before hearing (15 day appeal period)

CALIFORNIA GOVERNMENT CODE SECTIONS 65864-65869.5

65864. The Legislature finds and declares that:

(a) The lack of certainty in the approval of development projects can result in a waste of resources, escalate the cost of housing and other development to the consumer, and discourage investment in and commitment to comprehensive planning which would make maximum efficient utilization of resources at the least economic cost to the public.

(b) Assurance to the applicant for a development project that upon approval of the project, the applicant may proceed with the project in accordance with existing policies, rules and regulations, and subject to conditions of approval, will strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic costs of development.

(c) The lack of public facilities, including, but not limited to, streets, sewerage, transportation, drinking water, school, and utility facilities, is a serious impediment to the development of new housing. Whenever possible, applicants and local governments may include provisions in agreements whereby applicants are reimbursed over time for financing public facilities.

65865. (a) Any city, county, or city and county, may enter into a development agreement with any person having a legal or equitable interest in real property for the development of the property as provided in this article.

(b) Any city may enter into a development agreement with any person having a legal or equitable interest in real property in unincorporated territory within that city's sphere of influence for the development of the property as provided in this article. However, the agreement shall not become operative unless annexation proceedings annexing the property to the city are completed within the period of time specified by the agreement. If the annexation is not completed within the time specified in the agreement or any extension of the agreement, the agreement is null and void.

(c) Every city, county, or city and county, shall, upon request of an applicant, by resolution or ordinance, establish procedures and requirements for the consideration of development agreements upon application by, or on behalf of, the property owner or other person having a legal or equitable interest in the property.

(d) A city, county, or city and county may recover from applicants the direct costs associated with adopting a resolution or ordinance to establish procedures and requirements for the consideration of development agreements.

(e) For any development agreement entered into on or after January 1, 2004, a city, county, or city and county shall comply with Section 66006 with respect to any fee it receives or cost it recovers pursuant to this article.

65865.1. Procedures established pursuant to Section 65865 shall include provisions requiring periodic review at least every 12 months, at which time the applicant, or successor in interest thereto, shall be required to demonstrate good

faith compliance with the terms of the agreement. If, as a result of such periodic review, the local agency finds and determines, on the basis of substantial evidence, that the applicant or successor in interest thereto has not complied in good faith with terms or conditions of the agreement, the local agency may terminate or modify the agreement.

65865.2. A development agreement shall specify the duration of the agreement, the permitted uses of the property, the density or intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes. The development agreement may include conditions, terms, restrictions, and requirements for subsequent discretionary actions, provided that such conditions, terms, restrictions, and requirements for subsequent discretionary actions shall not prevent development of the land for the uses and to the density or intensity of development set forth in the agreement. The agreement may provide that construction shall be commenced within a specified time and that the project or any phase thereof be completed within a specified time. The agreement may also include terms and conditions relating to applicant financing of necessary public facilities and subsequent reimbursement over time.

65865.3. (a) Except as otherwise provided in subdivisions (b) and (c), Section 65868, or Section 65869.5, notwithstanding any other law, if a newly incorporated city or newly annexed area comprises territory that was formerly unincorporated, any development agreement entered into by the county prior to the effective date of the incorporation or annexation shall remain valid for the duration of the agreement, or eight years from the effective date of the incorporation or annexation, whichever is earlier. The holder of the development agreement and the city may agree that the development agreement shall remain valid for more than eight years, provided that the longer period shall not exceed 15 years from the effective date of the incorporation or annexation. The holder of the development agreement and the city shall have the same rights and obligations with respect to each other as if the property had remained in the unincorporated territory of the county.

(b) The city may modify or suspend the provisions of the development agreement if the city determines that the failure of the city to do so would place the residents of the territory subject to the development agreement, or the residents of the city, or both, in a condition dangerous to their health or safety, or both.

(c) Except as otherwise provided in subdivision (d), this section applies to any development agreement which meets all of the following requirements:

(1) The application for the agreement is submitted to the county prior to the date that the first signature was affixed to the petition for incorporation or annexation pursuant to Section 56704 or the adoption of the resolution pursuant to Section 56800, whichever occurs first.

(2) The county enters into the agreement with the applicant prior to the date of the election on the question of incorporation or annexation, or, in the case of an



annexation without an election pursuant to Section 57075, prior to the date that the conducting authority orders the annexation.

(3) The annexation proposal is initiated by the city. If the annexation proposal is initiated by a petitioner other than the city, the development agreement is valid unless the city adopts written findings that implementation of the development agreement would create a condition injurious to the health, safety, or welfare of city residents.

(d) This section does not apply to any territory subject to a development agreement if that territory is incorporated and the effective date of the incorporation is prior to January 1, 1987.

65865.4. Unless amended or canceled pursuant to Section 65868, or modified or suspended pursuant to Section 65869.5, and except as otherwise provided in subdivision (b) of Section 65865.3, a development agreement shall be enforceable by any party thereto notwithstanding any change in any applicable general or specific plan, zoning, subdivision, or building regulation adopted by the city, county, or city and county entering the agreement, which alters or amends the rules, regulations, or policies specified in Section 65866.

65866. Unless otherwise provided by the development agreement, rules, regulations, and official policies governing permitted uses of the land, governing density, and governing design, improvement, and construction standards and specifications, applicable to development of the property subject to a development agreement, shall be those rules, regulations, and official policies in force at the time of execution of the agreement. A development agreement shall not prevent a city, county, or city and county, in subsequent actions applicable to the property, from applying new rules, regulations, and policies which do not conflict with those rules, regulations, and policies applicable to the property as set forth herein, nor shall a development agreement prevent a city, county, or city and county from denying or conditionally approving any subsequent development project application on the basis of such existing or new rules, regulations, and policies.

65867. A public hearing on an application for a development agreement shall be held by the planning agency and by the legislative body. Notice of intention to consider adoption of a development agreement shall be given as provided in Sections 65090 and 65091 in addition to any other notice required by law for other actions to be considered concurrently with the development agreement.

65867.5. (a) A development agreement is a legislative act that shall be approved by ordinance and is subject to referendum.

(b) A development agreement shall not be approved unless the legislative body finds that the provisions of the agreement are consistent with the general plan and any applicable specific plan.

(c) A development agreement that includes a subdivision, as defined in Section 66473.7, shall not be approved unless the agreement provides that any tentative

map prepared for the subdivision will comply with the provisions of Section 66473.7.

65868. A development agreement may be amended, or canceled in whole or in part, by mutual consent of the parties to the agreement or their successors in interest. Notice of intention to amend or cancel any portion of the agreement shall be given in the manner provided by Section 65867. An amendment to an agreement shall be subject to the provisions of Section 65867.5.

65868.5. No later than 10 days after a city, county, or city and county enters into a development agreement, the clerk of the legislative body shall record with the county recorder a copy of the agreement, which shall describe the land subject thereto. From and after the time of such recordation, the agreement shall impart such notice thereof to all persons as is afforded by the recording laws of this state. The burdens of the agreement shall be binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement.

65869. A development agreement shall not be applicable to any development project located in an area for which a local coastal program is required to be prepared and certified pursuant to the requirements of Division 20 (commencing with Section 30000) of the Public Resources Code, unless: (1) the required local coastal program has been certified as required by such provisions prior to the date on which the development agreement is entered into, or (2) in the event that the required local coastal program has not been certified, the California Coastal Commission approves such development agreement by formal commission action.

65869.5. In the event that state or federal laws or regulations, enacted after a development agreement has been entered into, prevent or preclude compliance with one or more provisions of the development agreement, such provisions of the agreement shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
BRISBANE ESTABLISHING PROCEDURES AND REQUIREMENTS  
FOR THE CONSIDERATION AND ADOPTION OF DEVELOPMENT AGREEMENTS

WHEREAS, Article 2.5, Division 1 of Title 7 of the Government Code (commencing with Section 65864) provides that a City may enter into a development agreement with any person having a legal or equitable interest in real property for the development of such property; and

WHEREAS, Section 65865 of the Government Code provides that the City may, by resolution or ordinance, establish procedures and requirements for the consideration of development agreements:

NOW, THEREFORE, BE IT RESOLVED, that the following procedures and requirements for the consideration of development agreements be, and hereby are, adopted:

PART 1 - Application

1. Authority for adoption. These regulations are adopted under the authority of Government Code Section 65864 et seq.

2. Applications. Consideration of a development agreement pursuant to Government Code Section 65864 et seq. shall be initiated by the applicant(s). If the applicant(s) is not the fee owner(s), the fee owner(s) must join in the application. The City of Brisbane may, at its sole discretion, enter into a binding agreement with any qualified applicant(s) for the development of such property pursuant to and in accordance with these regulations.

3. Filing application. The application shall be filed in the office of the Planning Director. The form of such application and the information and data to be set forth thereon shall be as prescribed by the Director. Each application shall be accompanied by fees as established by resolution of the City Council.

4. Application Contents. Any application for a development agreement made to the Planning Director shall contain a proposed agreement with the following information:

a. A legal description of the property sought to be covered by the development agreement.

b. A description of the proposed uses, height and size of the buildings, density or intensity of use, and provision for reservation or dedication of land for public purposes.

c. All proposed conditions, terms, restrictions and requirements regarding subsequent City discretionary actions.

d. The proposed time when construction will be commenced and completed, both as to the entire project and as to all phases established therein.

e. A termination date for the development agreement.

f. The location of all public improvements, requirements for landscaping, and any other terms and conditions.

5. The application shall contain sufficient information to enable the Planning Director to perform an initial study pursuant to the California Environmental Quality Act ("CEQA") Guidelines Section 15063 (14 Cal.Admin. Code §15063).

6. The application shall contain sufficient information to establish that the project is consistent with the General Plan of the City and all other applicable specific plans.

7. The application shall contain such other information as the Planning Director may require to prepare a recommendation.

#### PART 2 - Action by Planning Commission

1. The application shall be processed by the Planning Director upon receipt. The Planning Director shall report to the Planning Commission the results of any environmental investigation and shall submit a recommendation regarding the proposed development agreement. The Planning Commission shall hold a noticed public hearing to consider the recommendation regarding the adoption of a development agreement in accordance with Section 65854, 65854.5 and 65856 of the Government Code.

2. The Planning Commission shall not recommend approval unless it finds the provisions of the agreement are consistent with the General Plan and any applicable specific plans.

3. The Planning Commission upon completion of the hearing and upon finding the agreement consistent with the General Plan and any applicable specific plans, shall make a recommendation to the City Council.

#### PART 3 - Action by City Council

1. Upon receipt of the application, the results of any environmental investigation, and the recommendation of the

Planning Commission and/or the Planning Director, the City Council shall hold a noticed public hearing regarding the Council's intent to consider the adoption of a development agreement as provided in Section 65854, 65854.5 and 65856 of the Government Code.

2. Upon completion of the public hearing and the closure thereof, the City Council shall approve, modify, or disapprove the proposed development agreement.

3. The agreement shall not be approved by the City Council unless the City Council finds that the proposed development agreement, as submitted or modified, is consistent with the General Plan and any applicable specific plans and this resolution.

4. The City Council may add, modify or delete any provision of the proposed development agreement as a condition of approval.

5. Should the City Council determine to approve the development agreement, it shall be adopted by ordinance and subject to referendum.

6. The effective date of the agreement shall be the effective date of the ordinance unless a later date or the occurrence of an event is specified in the agreement as the effective date.

7. The City may consider adoption of development agreements for property located outside the corporate limits of the City. The application shall be acted upon by the City only if the property is in the sphere of influence of the City and in the City's General Plan or any specific plan(s), if applicable. The agreement shall be conditioned upon the annexation of the property becoming effective. If the annexation is not completed within the time period specified in the agreement for the annexation to occur, or any extension by agreement, the agreement shall become null and void.

#### PART 4 - Irregularity in proceedings

No action, inaction or recommendation regarding the proposed development agreement shall be held void or invalid or be set aside by a court by reason of any error, irregularity, informality, neglect or omission ("error") as to any matter pertaining to petition, application, notice, finding, record, hearing, report, recommendation or any matter of procedure whatever, unless after an examination of the entire case, including the evidence, the court is of the opinion that the error complained of was prejudicial and by reason of the error the complaining party sustained or suffered substantial injury,

and that a different result would have been probable if the error had not occurred or existed. There is not a presumption that error is prejudicial or that injury was done if error was shown.

#### PART 5 - Recordation

1. Within ten (10) days after the effective date of the development agreement, the City Clerk shall have the agreement recorded with the County Recorder.

2. If the parties to the agreement or their successors in interest amend or cancel the agreement as herein provided, or if the City terminates or modifies the agreement for failure of the applicant to comply in good faith with the terms or conditions of the agreement, the City Clerk shall have notice of such action recorded with the County Recorder.

#### PART 6 - Amendment or cancellation

1. Any development agreement may be amended or cancelled in whole or in part, by the mutual consent of the parties to the agreement or by their successors in interest. The procedure for amendment or cancellation shall be the same as the procedure for approval except for the findings required to be made by the City Council. An amendment may be granted upon a finding by the City Council that the amendment is consistent with the General Plan, and specific plan and Zoning Codes in effect at the time the ordinance authorizing the agreement was adopted, or at the time of any amendment. Review of the amendment shall be limited to consideration of those elements proposed to be added or changed.

2. The issuance of any land use approval or permit which approves a change in the term, permitted uses, density or intensity of use, height or size of buildings, provisions for reservation and dedication of land, conditions, terms, restrictions and requirements relating to subsequent discretionary actions, monetary contributions by a developer, or in any other vested element set forth in the agreement, shall require an amendment to the development agreement for such change to be vested.

3. Any change in the design elements not specified in the agreement shall not require an amendment of the agreement. The Planning Director shall make the determination as to whether an amendment is necessary.

#### PART 7 - Compliance

1. The Planning Director shall set a hearing for the Planning Commission for review of developer's compliance with the agreement on an annual basis and at any other time that the Director determines there are reasonable grounds to believe the

developer may be in default of the agreement. Developer shall notify the Planning Director of each anniversary date one month in advance of the annual review period.

2. Upon not less than thirty (30) days written notice by the Planning Director, the developer shall provide such information and documents as may be deemed by the Director to be reasonably necessary to ascertain compliance with the agreement.

3. If the Director of Planning intends to recommend that the Planning Commission refer the matter to the City Council, the Director shall so notify the developer. Such notice shall specify the actions which must be taken to cure the noncompliance. If the developer, in writing, requests time to cure the noncompliance, the Planning Commission hearing shall be deferred to allow a reasonable period of time to allow the developer to affect a cure. The reasonable period of time shall be determined by the Director under the circumstances, provided, however, that if the noncompliance presents a threat of eminent harm to the public, the deferral shall not be more than thirty (30) days.

4. At any compliance hearing, the developer shall be given the opportunity to be heard orally or in writing regarding performance under the agreement.

5. If the Planning Commission finds the developer to be in full compliance with all terms and conditions of the agreement, it shall adopt a resolution certifying compliance of the agreement through the applicable period of review. Said resolution may be recorded by the developer with the County Recorder.

6. If the Planning Commission finds that good faith compliance with all terms and conditions of the agreement has not been demonstrated, the Commission shall refer the matter along with its recommendation to the City Council.

7. If the Planning Commission refers the matter, the City Council shall conduct a hearing on compliance at its first available agenda for such referral. The Council shall hear the matter de novo.

8. If the City Council finds and determines, on the basis of substantial evidence, that the developer has not complied in good faith with all terms and conditions of the agreement, the City Council may terminate or modify the agreement.

#### PART 8 - Change in state laws or regulations

The City is not precluded from applying to development of the subject property changes in City laws, regulations, plans or

policies, the terms of which are specifically mandated and required by changes in state or federal laws or regulations. In the event state or federal laws or regulations enacted after the agreement have been executed or action of any governmental jurisdiction other than the City prevents or precludes compliance with one or more provisions of this agreement or requires changes in plans, maps or permits approved by City, the agreement shall be modified, extended or suspended as may be necessary to comply with such state or federal laws or regulations or the regulations of such other governmental jurisdictions.

#### PART 9 - Default

1. Failure or unreasonable delay by the developer to perform any term or provision of the agreement shall constitute a default. Except in cases where developer's breach of this agreement presents a threat of eminent harm to the public, the City Manager shall give the developer not less than thirty (30) days notice in writing specifying the nature of the alleged default and the manner in which said default may be satisfactorily cured. After notice and expiration of the thirty (30) day period, the City, at its option, may institute legal proceedings for specific performance or other injunctive or declaratory relief to enforce the agreement. In the alternative, the City may, rather than following the default procedure, hold a compliance review pursuant to Part 7 of this resolution.

2. In the event the City does not accept application for review, approval or issuance of necessary development permits or entitlements for use to a developer as required by and in accordance with the terms of a development agreement, or the City otherwise defaults under the terms of the development agreement as to such developer, such developer shall not be obligated to proceed with or complete the improvements required under the development agreement, or any phase thereof, nor shall resulting delays in such developer's performance constitute grounds for termination or cancellation of the development agreement. In addition, the developer may, at developer's option, institute legal proceedings for specific performance or other injunctive or declaratory relief to enforce the agreement. Nothing herein shall limit any legal right under a cooperative agreement underlying an assessment district or similar proceeding entered into between the City and developer for the project.

#### PART 10 - Reserved approvals

1. Nothing herein shall be construed to limit the authority or obligation of the City to hold necessary public hearings or to limit the discretion of the City or any of its officers or officials with regard to rules, regulations, ordinances, laws and entitlements of use which require the exercise of discretion by City or any of its officers or



officials, provided that the subsequent discretionary actions shall not be in conflict with those elements vested in the development agreement.

2. Nothing herein shall be construed to limit the authority of the City to adopt and apply codes, ordinances or regulations which have the legal effect of protecting persons or property from dangerous or hazardous conditions which create substantial physical risk. This provision is intended to protect and recognize the authority of the City to deal with dangerous or hazardous conditions or situations which were not adequately addressed at the time of the adoption of the development agreement. This section is not intended to otherwise limit intensity of development or use for purposes of general public welfare.

3. Codes, ordinances, and regulations relating to construction standards or permits shall apply as of the time of grant of each applicable construction permit, except to the extent that such are in conflict with a vested element. In the case of conflict, the new codes, ordinances, and regulations shall apply to new construction to the same extent as would be applicable in the case of substantial reconstruction of an existing structure.

THEREFORE, the Brisbane City Council hereby adopts this resolution for establishing the procedures and requirements for consideration and adoption of development agreements.

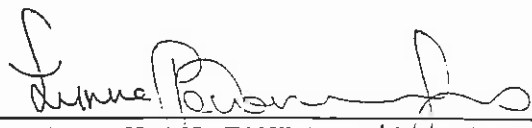
  
LEWIS E. GRAHAM II, Mayor

I hereby certify that the foregoing Resolution No. 88-10 was duly and regularly passed and adopted by the City Council of the City of Brisbane at a regular meeting thereof held on the 25th day of April, 1988, by the following vote.

AYES: Nielsen, Miller, Smith, Attard, Graham

NOES: None

ABSENT: None

  
LYNNE BOWMAN-JONES, City Clerk

draft  
RESOLUTION NO. RZ-7-11a

RESOLUTION OF INTENTION TO CONSIDER AMENDMENTS TO  
THE CITY OF BRISBANE MUNICIPAL CODE TITLE 17, ZONING, REGARDING  
PLANNING PERMIT EXPIRATIONS, EXTENSIONS AND REVOCATIONS; APPEAL PERIODS;  
HEARING DEADLINES; AND NOTIFICATION REQUIREMENTS

WHEREAS, concerns have been expressed regarding the process for extending planning permits prior to their expiration under the Brisbane Municipal Code's current regulations; and

WHEREAS, 1994 General Plan Policy 4 calls for the City to "Acknowledge the fundamental rights of citizens to freely act and to use their own property, except to the extent government rules or regulations are necessary for the public health and safety and for protection of the environment;" and

WHEREAS, Policy 5 directs the City to "Use the least intrusive rules and regulations consistent with overall governmental needs and State and Federal law;" and

WHEREAS, Policy 6 requires that the City to "Set clear and definitive standards for all rules and regulations;" and

WHEREAS, 2007-2014 Housing Element Program H.I.1.a dictates that the City "Continue to evaluate and implement changes to the zoning ordinance and permitting process to simplify and streamline approval of projects that meet the City's housing goals;" and

WHEREAS, amending the Zoning Ordinance to provide clear and consistent procedures regulating planning permit expirations, extensions and revocations, appeal periods, public hearing deadlines and notification requirements would streamline processing, while protecting the public health and safety and the environment, consistent with governmental needs and State law.

NOW, THEREFORE, BE IT RESOLVED, that the City of Brisbane Planning Commission intends to consider amendments to the Title 17, Zoning, of the Brisbane Municipal Code.

\_\_\_\_\_  
JAMEEL MUNIR  
Chairman

I hereby certify that the foregoing Resolution No. RZ-7-11a was duly and regularly passed and adopted by the Brisbane Planning Commission at a regular meeting thereof held on October 27, 2011, by the following roll call vote:

AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
JOHN SWIECKI  
Community Development Director

4.2.18.

## DRAFT “REDLINE” ORDINANCE

Proposed changes in the current Municipal Code are indicated **by striking through** the existing language to be deleted and putting the new language ***in italics***.

### Title 16

#### SUBDIVISIONS

##### Chapter 16.16

#### TENTATIVE MAP PROCEDURES

16.16.270 – *Expiration and* ~~Time~~ extensions of approved tentative maps.

An approved or conditionally approved tentative map shall expire *three (3) years* ~~twenty-four (24) months~~ after its approval or conditional approval *or as provided by state law*. The expiration of the approved or conditionally approved tentative map shall terminate all proceedings and no final map shall be filed without first processing an application for a new tentative map. Upon application by the subdivider to the planning director, filed prior to the expiration of the approved or conditionally approved tentative map, the time within which such map expires may be extended by the planning commission. No extension period shall exceed *two (2) years* ~~twelve (12) months~~.

### Title 17

#### ZONING

##### Chapter 17.28

#### PD PLANNED DEVELOPMENT DISTRICT

17.28.050 Public hearing by planning commission-Notice. *The planning commission shall conduct a public hearing on the application for a Planned Development Permit. Notice of such hearing shall be given as set forth in Chapter 17.54.* ~~The planning commissions shall conduct a public hearing on the application for PD permit. Notice of the public hearing shall be given not less than ten (10) days nor more than thirty (30) days prior to the date of the hearing by mailing, postage prepaid, a notice of the time and place of the hearing to the applicant and to all persons whose names appear on the latest available assessment roll of the county as owning property within three hundred (300) feet of the boundaries of the site which is the subject of the PD permit application. Notice of the public hearing shall also be posted at each location within the city where agendas for planning commission meetings are routinely posted.~~

Section 17.28.110 – Expiration of PD permit--Extensions

A. *Planned Development Permits shall expire three (3) years (unless a different period of time is designated by the approving body) from their effective date at the end of the appeal period or,*

*if appealed, upon final approval, if application for a Building Permit for the project has not yet been submitted, if the Building Permit application submitted has been abandoned, or if the Building Permit issued for the project becomes invalid: except that a Planned Development Permit issued in conjunction with a Tentative Map shall expire concurrently with the Tentative Map, including automatic extensions through the State Subdivision Map Act. Subject to specific provision, a Development Agreement adopted by the City Council may require that a related Planned Development Permit shall have the same expiration date as the Development Agreement.*

~~A PD permit granted pursuant to this chapter shall expire twenty four (24) months from the date on which such permit became effective, unless prior to such expiration date a building permit is issued and construction is commenced on the site or structure constituting the subject of the PD permit, or a certificate of occupancy is issued for such site or structure, or, if no building permit or certificate of occupancy is required, the use or activity authorized by the PD permit is commenced upon the site.~~

~~A PD permit may be extended for a period or periods of time not exceeding thirty six (36) months. The application for extension shall be filed prior to the expiration date of the permit and shall be accompanied by payment of a processing fee in such amount as established from time to time by resolution of the city council. A public hearing shall be conducted on the application for extension and notice thereof shall be given in the same manner as prescribed in Section 17.28.050 of this chapter. Extension of a PD permit is not a matter of right and the approving authority may deny the application or grant the same subject to conditions. No extension shall be granted unless the approving authority is able to make all of the findings required for approval of the original permit. The application for extension may be acted upon by the planning commission unless, under the terms of the PD permit, such extension requires approval by the city council or the matter is appealed to the city council pursuant to Section 17.28.150.~~

## Chapter 17.40

### USE PERMITS

**17.40.040 Application—Public hearing—Notice.** *Public hearing by planning commission—Notice. The planning commission shall conduct a public hearing on the application for a Use Permit. Upon receipt of an application for a use permit, the secretary of the planning commission shall set a date for a public hearing on such application; such hearing shall be held within forty five (45) days after the filing of the application. Notice of such hearing shall be given as set forth in Chapter 17.54.*

**17.40.060.C.** *A use permit shall be effective upon the expiration of fifteen (15) days following the date on which the Use Permit was granted by the Zoning Administrator or Planning Commission, or, if appealed pursuant to Chapter 17.52 of this title, upon final approval the seventh day after planning commission approval unless the action is appealed to the city council, in which case the permit shall not be effective until a final decision on the appeal has been made by the city council. Use Permits approved in conjunction with a Tentative Subdivision Map or Tentative Parcel Map shall be subject to a ten (10) day appeal period pursuant to Chapter 16.44 of Title 16, Subdivisions.*

*17.40.080 Expiration. Use Permits shall expire three (3) years (unless a different period of time is designated by the approving body) from their effective date at the end of the appeal period or, if appealed, upon final approval, if the approved use has not yet been established; except that a Use Permit issued in conjunction with a Variance, Design Permit, Planned Development Permit and/or Tentative Map shall expire concurrently with the Variance, Design Permit, Planned Development Permit or Tentative Map, including any automatic extensions thereof through the State Subdivision Map Act. Subject to specific provision, a Development Agreement adopted by the City Council may require that a related Use Permit shall have the same expiration date as the Development Agreement.*

*17.40.090 Extension. A. A Use Permit may be extended by the zoning administrator for a period not to exceed two (2) years or five (5) years from the effective date of the Use Permit/Variance/Design Permit, if the original approval was categorically or otherwise exempt from the provisions of the California Environmental Quality Act. The application for extension shall be filed prior to the expiration date of the Use Permit/Variance/Design Permit and shall be accompanied by payment of a processing fee in such amount as established from time to time by resolution of the city council.*

*B. If the zoning administrator determines that an extension should be granted, the zoning administrator shall give written notice of such intended decision to all persons shown on the latest adopted tax roll as owning property within three hundred (300) feet from the boundaries of the project site. Notice shall also be posted at each location within the city where agendas for planning commission meetings are routinely posted. The notice shall advise that any person shall have ten (10) days from the date of the mailing of the notice to submit a written request for a hearing on the intended approval of the extension, which shall be held not less than fifteen (15) days from the date of mailing the notice. The notice shall also advise of the right to appeal a decision of the zoning administrator to the planning commission.*

*C. In granting an extension, the zoning administrator is not authorized to initiate any amendments of the original conditions of approval.*

*D. No extension shall be granted unless a finding is made that there have been no substantial changes in the circumstances or applicable land use regulations under which the permit was originally approved. The zoning administration may refer any extension application to the planning commission for a decision thereon if the zoning administrator is unable to make the required finding. An application referred by the zoning administrator to the planning commission shall be processed in accordance with the same procedure applicable to an appeal.*

## Chapter 17.42

### DESIGN PERMITS

*17.42.030 Public hearing by planning commission-Notice. The planning commission shall conduct a public hearing on the application for a Design Permit. Notice of such hearing shall be given as set forth in Chapter 17.54 ~~not less than ten (10) days nor more than thirty (30) days~~ prior to the date of the hearing by mailing, postage prepaid, a notice of the time and place of the hearing to the applicant and to all persons whose names appear on the latest available assessment*

~~roll of the county as owning property within three hundred (300) feet of the boundaries of the site which is the subject of the permit application. Notice of the public hearing shall also be posted at each location within the city where agendas for planning commission meetings are routinely posted.~~

~~17.42.050.B. Design Permits shall become effective upon the expiration of fifteen (15) days following the date on which the Use Permit/Variance/Design Permit was granted by the Zoning Administrator/Planning Commission, or, if appealed pursuant to Chapter 17.52 of this title, upon final approval. Use Permits/Variations/Design Permits approved in conjunction with a Tentative Subdivision Map or Tentative Parcel Map shall be subject to a ten (10) day appeal period pursuant to Chapter 16.44 of Title 16, Subdivisions. The design permit shall become effective upon the expiration of fifteen (15) days following the date on which the design permit was granted by the planning commission, unless an appeal has been taken to the city council pursuant to Chapter 17.52 of this title.~~

#### **17.42.060 – Expiration of design permit—Extensions**

~~A. Design Permits shall expire three (3) years (unless a different period of time is designated by the approving body) from their effective date at the end of the appeal period or, if appealed, upon final approval, if application for a Building Permit for the project has not yet been submitted, if the Building Permit application submitted has been abandoned, or if the Building Permit issued for the project becomes invalid; except that a Design Permit issued in conjunction with a Tentative Map shall expire concurrently with the Tentative Map, including automatic extensions through the State Subdivision Map Act. Subject to specific provision, a Development Agreement adopted by the City Council may require that a related Design Permit shall have the same expiration date as the Development Agreement. A design permit granted pursuant to this chapter shall expire twenty-four (24) months from the date on which such permit became effective, unless prior to such expiration date a building permit for the structure which is the subject to the permit is issued and construction is commenced.~~

~~B. A design permit may be extended by the planning commission for a period or periods of time not exceeding thirty-six (36) months. The application for extension shall be filed prior to the expiration date of the permit and shall be accompanied by payment of a processing fee in such amount as established from time to time by resolution of the city council. A public hearing shall be conducted on the application for extension and notice thereof shall be given in the same manner as prescribed in Section 17.42.030 of this chapter. Extension of a design permit is not a matter of right and the approving authority may deny the application or grant the same subject to conditions.~~

#### **17.42.065 – Extensions**

~~A. A Design Permit may be extended by the zoning administrator for a period not to exceed two (2) years or five (5) years from the effective date of the Design Permit, if the original approval was categorically or otherwise exempt from the provisions of the California Environmental Quality Act. The application for extension shall be filed prior to the expiration date of the Design Permit and shall be accompanied by payment of a processing fee in such amount as established from time to time by resolution of the city council.~~

~~B. If the zoning administrator determines that an extension should be granted, the zoning administrator shall give written notice of such intended decision to all persons shown on the~~

*latest adopted tax roll as owning property within three hundred (300) feet from the boundaries of the project site. Notice shall also be posted at each location within the city where agendas for planning commission meetings are routinely posted. The notice shall advise that any person shall have ten (10) days from the date of the mailing of the notice to submit a written request for a hearing on the intended approval of the extension, which shall be held not less than fifteen (15) days from the date of mailing the notice. The notice shall also advise of the right to appeal a decision of the zoning administrator to the planning commission.*

*C. In granting an extension, the zoning administrator is not authorized to initiate any amendments of the original conditions of approval.*

*D. No extension shall be granted unless a finding is made that there have been no substantial changes in the circumstances or applicable land use regulations under which the permit was originally approved. The zoning administration may refer any extension application to the planning commission for a decision thereon if the zoning administrator is unable to make the required finding. An application referred by the zoning administrator to the planning commission shall be processed in accordance with the same procedure applicable to an appeal.*

## Chapter 17.46

### VARIANCES

**17.46.030** ~~Application—Hearing date—Notice. Public hearing by planning commission—Notice.~~ *The planning commission shall conduct a public hearing on the application for a Variance. Upon receipt of an application for a variance, the secretary of the planning commission shall set a date for a public hearing on such application; such hearing shall be held within forty five (45) days after the filing of the application. Notice of such hearing shall be given as set forth in Chapter 17.54.*

**17.46.040.B.** ~~Variances shall become effective upon the expiration of fifteen (15) days following the date on which the Variance was granted by the Zoning Administrator or Planning Commission, or, if appealed pursuant to Chapter 17.52 of this title, upon final approval. Use Permits/Variances/Design Permits approved in conjunction with a Tentative Subdivision Map or Tentative Parcel Map shall be subject to a ten (10) day appeal period pursuant to Chapter 16.44 of Title 16, Subdivisions. A variance shall be effective the seventh day after planning commission or zoning administrator approval unless the action is appealed to the city council, or in the case of the zoning administrator, to the planning commission, in which case the variance shall not be effective until final action upon the appeal.~~

**17.46.060** *Expiration. Variances shall expire three (3) years (unless a different period of time is designated by the approving body) from their effective date at the end of the appeal period or, if appealed, upon final approval, if application for a Building Permit for the project has not yet been submitted, if the Building Permit application submitted has been abandoned, or if the Building Permit issued for the project becomes invalid; except that a Variance issued in conjunction with a Tentative Map shall expire concurrently with the Tentative Map, including automatic extensions through the State Subdivision Map Act. Subject to specific provision, a Development Agreement adopted by the City Council may require that a related Variance shall have the same expiration date as the Development Agreement.*

*17.46.070 Extension*

*A. A Variance may be extended by the zoning administrator for a period not to exceed two (2) years or five (5) years from the effective date of the Variance, if the original approval was categorically or otherwise exempt from the provisions of the California Environmental Quality Act. The application for extension shall be filed prior to the expiration date of the Variance and shall be accompanied by payment of a processing fee in such amount as established from time to time by resolution of the city council.*

*B. If the zoning administrator determines that an extension should be granted, the zoning administrator shall give written notice of such intended decision to all persons shown on the latest adopted tax roll as owning property within three hundred (300) feet from the boundaries of the project site. Notice shall also be posted at each location within the city where agendas for planning commission meetings are routinely posted. The notice shall advise that any person shall have ten (10) days from the date of the mailing of the notice to submit a written request for a hearing on the intended approval of the extension, which shall be held not less than fifteen (15) days from the date of mailing the notice. The notice shall also advise of the right to appeal a decision of the zoning administrator to the planning commission.*

*C. In granting an extension, the zoning administrator is not authorized to initiate any amendments of the original conditions of approval.*

*D. No extension shall be granted unless a finding is made that there have been no substantial changes in the circumstances or applicable land use regulations under which the permit was originally approved. The zoning administration may refer any extension application to the planning commission for a decision thereon if the zoning administrator is unable to make the required finding. An application referred by the zoning administrator to the planning commission shall be processed in accordance with the same procedure applicable to an appeal.*

Chapter 17.48

REVOCATION OF USE PERMIT OR VARIANCE

~~17.48.010—Permit or variance Null and void when.—Any use permit or variance shall be null and void if not used within one (1) year from the date of the approval thereof or within any different period of time, if so designated by the planning commission or city council. In addition, any use permit or variance shall be null and void if a subsequent use permit or variance is approved for the same property and dealing with the same subject.~~

Chapter 17.52

APPEALS

17.52.005 Appeal from planning director *or zoning administrator*.

Any person may appeal to the planning commission any order, requirement, decision, determination or other action of the planning director *or zoning administrator* with regard to any matter arising under this title, including any determination concerning the contents, subject



matter or completeness of any application, any determination concerning which permit or other approval is required, and any determination pursuant to Sections 17.02.080 or 17.02.090. Any such appeal shall be in writing and shall be filed with the planning department within fifteen (15) days after the action complained of. The appeal shall be accompanied by a fee, as set by the city council, and shall clearly state the reason for appeal. Upon receipt of such an appeal, the planning department, acting under the direction of the planning director, shall bring the appeal before the planning commission within thirty (30) days and shall notify the appellant and (if different) the applicant of the date and time of the planning commission meeting at which the appeal will be heard, *in addition to the notice required per Section 17.54.030. No other notice need be given, except such additional notice as may be required by state or other law.* The planning commission shall proceed to hear and determine the appeal at the same meeting or at such later meeting as it shall determine, and in connection therewith may continue the same from time to time.

#### 17.52.020 – Method

A. An appeal of a planning commission action shall be in writing and filed with the city clerk within fifteen (15) days after the final action of the planning commission. The appeal shall be accompanied by a fee, as set by the city council, and shall clearly state the reason for appeal. Upon receipt of such appeal, the city clerk shall notify the planning commission and shall set a time, within thirty (30) days after the receipt of such appeal, for a public hearing by the city council on such appeal. Notice of such hearing shall be given as set forth in Chapter 17.54.

B. In addition to the above, if any two (2) members of the city council within the fifteen (15) day period request in writing to the city clerk that the action of the planning commission be considered by the council as an appeal, the clerk shall notify the planning commission and the applicant and shall ~~place the matter for public hearing on the next available council agenda~~ *set the matter for hearing before the council at the earliest available date and cause notice of such hearing to be given as set forth in Chapter 17.54.* The mere fact that an appeal is made by two (2) members of the city council, as provided in this subsection, does not of itself require disqualification of either such councilmember from hearing and/or deciding the appeal.

*17.52.020.C. If the deadline for filing any appeal specified in this title falls upon a Saturday, Sunday, holiday or any other day on which the city offices are closed for the entire day for any reason, the deadline shall be by close of business on the first business day thereafter.*

## Chapter 17.54

### PUBLIC HEARINGS

17.54.030 – Use Permits, variances, *design permits and planned development permits and appeals*—Notice requirements.

A. Whenever an application for a variance, or a ~~conditional~~ use permit or *design permit or planned development* ~~other~~ permit, for revocation or modification of same or an appeal from the action taken thereon, is submitted to the body or person charged with conducting a public hearing thereon, *notice of the public hearing shall be given not less than ten (10) days nor more than thirty (30) days prior to the date of the hearing by mail to the applicant and to all persons*

*whose names appear on the latest available assessment roll of the county as owning property within three hundred (300) feet of the boundaries of the site which is the subject of the permit application. Notice of the public hearing shall also be posted at each location within the city where agendas for planning commission meetings are routinely posted, notice of hearing shall be given by notice through the United States mails, with postage prepaid using addresses from the last equalized assessment roll, or alternatively, from such other records of the assessor or tax collector as contain more recent addresses in the opinion of the body, or by both publication at least once in a newspaper of general circulation, published and circulated in the city, and by posting the notice in at least three (3) conspicuous places close to the property affected.*

~~B. When mailed notice is used, notice shall be given to all owners of property within one hundred (100) feet of the exterior boundaries of the property for which an application is being heard. The notices shall be mailed not less than ten (10) or more than thirty (30) days before the scheduled hearing.~~

~~C. When posted notice is used, posting shall be on utility poles on both sides of the property frontage and across the street from the subject property.~~

~~D. Notices specified in subsections B and C shall specify the type and magnitude of the application to be considered, the place where copies of the application may be reviewed, the time, date and place of the hearing and the right to appear and be heard. The notice shall include the date, time, and place of a public hearing, the identity of the hearing body or officer, a general explanation of the matter to be considered, and a general description, in text or by diagram, of the location of the real property, if any, that is the subject of the hearing.~~

## Chapter 17.56

### ZONING ADMINISTRATOR ADMINISTRATION

*17.56.030.A.10. Applications for extension of Use Permit, Variance or Design Permit approvals if the original approval was categorically or otherwise exempt from the provisions of the California Environmental Quality Act.*

17.56.040 – Zoning administrator-Reporting decisions to planning commission. All decisions of the zoning administrator, except decisions relating to the granting or denial of a sign permit pursuant to Chapter 17.36, shall be reported to the planning commission prior to the expiration of the appeal period. If any member of the planning commission desires to appeal the decision it shall be considered appealed ~~and placed on the next commission agenda.~~ *The secretary to the planning commission shall set the matter for hearing before the planning commission at the earliest available date and cause notice of such hearing to be given as set forth in Chapter 17.54.*

17.56.100 -- *Effective date and Appeals.* ~~Appeals from the d~~*Decisions* of the zoning administrator shall become effective upon the expiration of fifteen (15) days following the date on which the approval was granted, or, if appealed pursuant to Chapter 17.52 of this title, upon final approval. ~~may be made to the planning commission within seven (7) days after the action of the zoning administrator. Upon receipt of an appeal, the zoning administrator shall forward the same, together with the records on the matter, to the planning commission. The secretary to the~~

~~planning commission shall set the matter for hearing before the planning commission at the earliest available date and cause notice of such hearing to be given as set forth in Chapter 17.54. The planning commission shall consider the matter in the same manner as an application for a variance.~~

~~17.56.110 — Variances — effective date. — No variance granted by the zoning administrator shall have any force or effect until the applicant thereof actually receives such variance signed by the zoning administrator and designating thereon any conditions of its issuance that may have been imposed by the zoning administrator. No variance shall be issued until the time for filing an appeal from the decision of the zoning administrator has expired or, in the event of such appeal, until after a final decision has been rendered on the appeal by the planning commission, or by the city council in the event of a further appeal from the decision of the planning commission.~~